IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

OP.No. 31179 of 2002(J)

PETITIONER:

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1. RAMADASAN, S/O. KARTHIAYANI AMMA,
AGED 52 YEARS, EKKAPPATH, POTTASSERI AMSOM DESOM,
MANNARKKAD TALUK.

2. RAJAN, S/O. VELAYUDHAN, AGED 55 YEARS,
AKKARA VILAYIL VEEDU, POTTASSERI AMSOM DESOM,
MANNARKAD TALUK.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. THE MUNSIFF MAGISTRATE COURT,
MANNARKKAD.

2. KURIAN, AGED 55 YEARS,
S/O. MADATHILTHAZHE VARCKEY PADINJARE KULAPPURA
VEEDU, POTTASSERI AMSOM DESOM, MANNARKKAD TALUK.

BY GOVT.PLEADER SRI.SYSON P.MANGUZHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

Ext.P1: True copy of affidavit & petition filed by the petitioners in I.A No. 439/2002 in O.S. 120/1995

Ext.P2: True copy of order dated 17-7-2002 in I.A. No. 439/2002 in O.S. No. 120/1995 on the file of Munsiff Magistrate, Mannarkkad

//True copy//

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PIUS.C.KURIAKOSE. J.

O.P No.31179 of 2007

Dated this the 4th day of June 2007

JUDGMENT

This original petition has been posted as defective since service of notice on the 2nd respondent who is the plaintiff in the suit is not yet served. The learned counsel for the petitioner sought one more week time . But I am not inclined to grant time since I find that this court after hearing both sides not inclined to grant the stay and to continue the order of stay granted. A perusal of the impugned order (Ext.P2) will show that that one of the reasons which evade that the learned Munsiff-Magistrate for declining the petitioner's request to condone the delay caused in the matter of filing objections to the commission report,and plan is that the suit is an old one and several communications have been received by the High Court for disposing the target cases including the suit in quest. In all probability the suit is disposed of by now. The writ petition will stand dismissed. However the Advocate commissioner is being examined as a witness if the trial is not over. The petitioner shall be permitted by the learned Munsiff-Magistrate to cross- examine the Advocate commissioner with respect to the contentions raised in the statement of objections

PIUS.C.KURIAKOSE.JUDGE

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